

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOSIE S. LYNCH and U.S. POSTAL SERVICE,
POST OFFICE, Arcanum, OH

*Docket No. 98-936; Submitted on the Record;
Issued January 11, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established that she sustained an emotional condition in the performance of duty.

On March 28, 1995 appellant, then a 44-year-old postmaster, filed a claim for anxiety and depression due to job-related stress. By decision dated June 29, 1995, the Office of Workers' Compensation Programs found that appellant had not established that her claimed emotional condition arose out of the course of her employment. Appellant requested a hearing before an Office hearing representative, which was held on February 14, 1996. By decision dated June 17, 1996, an Office hearing representative found that appellant's reaction to an investigation by the employing establishment was not covered under the Federal Employees' Compensation Act, that appellant had not submitted evidence to substantiate her allegations of improprieties by postal inspectors, that appellant had not shown error or abuse in the administrative matter of denial of leave and that appellant had not substantiated her allegations regarding a difficult relationship with one of her subordinate employees. After appellant's attorney objected to not having been sent a copy of this decision, the Office reissued the Office hearing representative's June 17, 1996 decision on October 23, 1997.

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or an illness has some connection with the employment but nevertheless does not come within the concept or coverage of workers' compensation. Where the disability results from an employee's emotional reaction to his regular or specially assigned work duties or to a requirement imposed by the employment, the disability comes within the coverage of the Act. On the other hand, the disability is not covered where it results from such factors as an employee's fear of a reduction-

in-force or her frustration from not being permitted to work in a particular environment or to hold a particular position.¹

The Board finds that appellant has not established that she sustained an emotional condition in the performance of duty.

Appellant's primary allegation was that her emotional condition was related to an investigation done by postal inspectors and particularly to her interview by these postal inspectors on March 22, 1995, two days before appellant stopped work. The Board has held that investigations into alleged illegal or improper acts are not within an employee's performance of duty.² An employing establishment must retain the right to investigate an employee if wrong-doing is suspected. The investigation itself is not a compensable factor under the Act, but is rather performance of an administrative function.³ As such, investigations are not compensable factors of employment unless there is affirmative evidence that the employer either erred or acted abusively in the administration of the investigation.⁴ Appellant alleged abuse on the part of the postal inspectors: that they broke into her office, went through her personal papers, badgered and belittled her, called her a liar and made her feel like a criminal. She, however, has submitted no evidence to substantiate these allegations of abuse and thus has not established a factual basis for her claim by supporting her allegations with probative and reliable evidence.⁵

Appellant also has submitted no evidence to substantiate her allegation that the employing establishment improperly denied her request for leave to care for her terminally ill mother. Absent evidence of error or abuse, matters regarding use of leave are generally not considered compensable factors of employment.⁶ She also has not submitted any evidence to substantiate her allegations of harassment by a subordinate employee. As appellant has not cited and substantiated any compensable factors of employment, the Office properly denied her claim.

¹ *Lillian Cutler*, 28 ECAB 125 (1976).

² *Arthur F. Hougens*, 42 ECAB 455 (1991).

³ *Larry J. Thomas*, 44 ECAB 291 (1992).

⁴ *Merriett J. Kauffman*, 45 ECAB 696 (1994).

⁵ *Norma L. Blank*, 43 ECAB 384 (1992).

⁶ *Sharon K. Watkins*, 45 ECAB 290 (1994).

The decision of the Office of Workers' Compensation Programs dated October 23, 1997 is affirmed.

Dated, Washington, D.C.
January 11, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member